IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2100 of 1989

with

SPECIAL CIVIL APPLICATION No 3667 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAM KUMAR DIKSHIT

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2100 of 1989
   MR MC BHATT for Petitioner No. 1-5
   MR.LR PUJARI A.G.P for Respondent No. 1-3
2. Special Civil Application No. 3667 of 1987
   MR MC BHATT for Petitioner No. 1
   M/S PATEL ADVOCATES for Respondent No. 1

CORAM : MR.JUSTICE N.G.NANDI

Date of decision: 28/06/2001

ORAL JUDGEMENT

1. Heard Mr.M.C. Bhatt learned counsel for the petitioner and Mr.L.R. Pujari, learned A.G.P. for the respondent-State.

2. In these two Special Civil Applications under Article 226 of the Constitution of India, the petitioners have been challenging the respondent's action in as much as the respondent government is said to have withheld the increments of the petitioners as illegal, void with a further direction to release the increments of the petitioners and to pay regular salary on the basis that they have regularly earned the increments and that the petitioner are not required to pass the Gujarati Language Examination and that the circulars requiring the petitioners to pass Gujarati Language Examination are ultravires to the Constitution of India.

3. The say of the petitioners is that the petitioners have passed the requisite examinations for claiming increments and that this increments cannot be withheld. Thus the say of the petitioners is that all of them have passed Lower and Higher Level Gujarati Language Examination as required for the purpose of getting increments. No affidavit-in-reply is filed by the respondent refuting the say of the petitioners as regards their passing Lower and Higher Level Gujarati Language Examination as averred in the petition. The petitioners having subsequent to their passing examination have been given the increments. The only dispute raised in this petition is non granting of the increments during the period they did not clear Gujarati Language Lower and Higher Level Examination. Thus, the dispute revolves around the non payment of increments during the intervening period.

6. In this petition vide order dated 17.4.89, this Court granted interim relief in terms of para 14 (C) of the petition. It is suggested from the said order that the petitioners were required to appear at every Gujarati Language Examination till they pass and that the petitioners will restore the amount of increments in salary within three months from the order of the High Court, in case the petitioners fail in this petition.

7. Pursuant to the above, the petitioners have been

getting increments. Since the petitioners have cleared the Lower and Higher Level Gujarati Language Examination and they have also been getting increments subsequent to their passing the aforesaid examination, the petitioners need to be granted increments for the intervening period i.e. from the date they did not clear Gujarati Language Examination and till they cleared Gujarati Lower and Higher Level Language Examination.

8. In Special Civil Application No.3667/87, this Court directed the respondent authorities not to withhold the increments or to recover any amount if the petitioners clear the examination within a period of three years from the date of the judgement and the petition was accordingly allowed to the said extent.

9. In Special Civil Application No.5563/86 decided on 18.8.99, the issue has been concluded and that the petitioners were granted three years time from the date of the judgment to clear the lower and Higher Level Gujarati Language Examination. Under the circumstances, the respondents are directed to pay increments to the petitioners.

10. The present petitions are on much better footings in as much as all the petitioners are stated to have cleared Higher and Lower Level Examination prior to the filing of the petition and the dispute is about the non payment of increments during the intervening period as pointed out above.

11. Having regard to the facts and circumstances the petitioners would be entitled to the increments during the intervening period as aforestated. Rule made absolute accordingly. No order as to costs.

28.6.2001. (N.G. Nandi, J.)

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